

**MINUTES OF THE MEETING
RIVERHEAD INDUSTRIAL DEVELOPMENT AGENCY**

March 4, 2019

Meeting was called to order at 5:03PM by Chairman Thomas Cruso.

Present: Thomas (Tom) Cruso, Chairman
Lori Ann Pipczynski, Vice Chairwoman
Robert (Bob) Kern, Treasurer

James Farley

Absent: Anthony (Tony) Barresi, Secretary

Signifying a quorum.

Others in Attendance: Tracy Stark-James, Executive Director
Richard Ehlers, Counsel
Councilman James Wooten, TOR Liaison

Member Lori Ann Pipczynski motioned to approve the proposed agenda. Member James Farley seconded. The agenda was adopted.

MINUTES

The Board moved to dispense with the reading of and voted on the February 4th and February 22nd meeting minutes and the January 14th, 2019 meeting minutes as amended.

18-19 RESOLUTION APPROVES MINUTES OF REGULAR MEETING OF February 4th and Special Meetings of February 22nd and the January 14th, 2019 as amended.

Member Lori Ann Pipczynski offered the following resolution, which was seconded by Member James Farley.

RESOLVED, the minutes of the meeting of January 14th, February 4th and February 22, 2019 as prepared e-mailed and amended be and are hereby approved, and

BE IT FURTHER RESOLVED, that copies of said minutes be maintained in the files of the Agency and become a part of the record of the Agency.

Vote: 4 Yes
1 Absent

CORRESPONDENCE: None

TREASURER'S REPORT:

Cash Balance in as of February 28	\$365,582.85
Revenue for February	\$92,122.12
Profit and Loss	\$72,068.14
Accounts Receivable (includes PILOTS)	\$12,977.000
Total Expenses Paid	\$17,661.46

#16-19 RESOLUTION ACCEPTS REPORT OF EXPENSES AND AUTHORIZES PAYMENT OF BILLS AS OF February 28, 2019

WHEREAS, Denise Cooper, CPA and Tracy Stark-James, Executive Director, submitted monthly financial reports, including a report of expenses, to the Riverhead Industrial Development Agency for the period of February 1 to February 28, 2019 **as attached**,

NOW, THEREFORE, BE IT RESOLVED, said monthly financial report dated March 1, 2019 covering the month of February, be and are hereby accepted and expenses as listed are authorized for payment.

Member Bob Kern made a motion to accept Treasurer's Report, which was seconded by Member Lori Ann Pipczynski. **Motion approved.**

Vote: 4 Yes
1 Absent

COMMITTEE REPORTS:

There was no Audit Committee Report, nor a Finance Committee Report.

Governance Committee: Chairwoman of the committee Lori Ann Pipczynski reported that the committee met on Feb 26 to review the policies and reports of the Agency including webposting and project synopsis. The committee voted unanimously to recommend to the board that the policies be reauthorized with no changes at this time.

A review of the annual board evaluations showed no areas of concern, so no action was required. The committee addressed limiting discussions during the board meetings to agenda items in an effort to ensure the board members were aware and prepared for proposed discussions. Agency goals were reviewed and no changes were recommended. The committee decided to recommend a 10% recapture fee to be added to the schedule of fees. They discussed the NYS requirement of adopting a sexual harassment policy and to provide professional development opportunities for the board which would focus on effectiveness, impact in generating tax revenue and community benefits for the town. Tom and Tracy will meet to develop specifics and to identify an appropriate facilitator and presenters for a potential March or April event.

OLD BUSINESS: None

NEW BUSINESS:

a. Consideration of Authorizing a refinance for Browning Properties.

Counsel provided a brief history on the Browning Property approvals. He explained that both phases/facilities are on one tax parcel, so when one is financed it's almost necessary that the other is financed. He noted that there was a slight change in the resolution since the first draft was circulated. The overall loan amount is unchanged, but the distribution between the two facilities changed slightly.

He reminded the board that the Agency authorized mortgage recording tax (MRT) in 2007. When the applicant refinanced in 2016 the applicant brought a case before the NYS Tax Commissioner on the issue of whether the increase relative to the in the MTA tax that was no longer exempt applied to this older project since it was pre-existing and the applicant prevailed. Therefore, older projects may sight this as precedent for continuation of the older tax exemptions - reciting the resolution that these mortgages are free of tax. Therefore, the Agency view is that the old exemption is continued to the new mortgage.

Counsel Ehlers continued to explain to the board that we are not trying to impose a tax, but the question arose, are they realizing a new tax benefit each time or are we merely memorializing that the old tax benefit that is still in place and continues. In one case you would see it as multiple exemptions. The other is, they have an exemption and they carry it forward.

In as far as the Agency view of these applications for refinancing goes and based on the recent decision by Tax Commissioner, it appears that it is fair to say that the old exemption is continued to the new filing of the mortgage particularly in this case where they are assigning. In traditional mortgage world, if you pay a MRT and that mortgage is assumed by a new lender, you do not pay a new tax. In the case of our projects, no original tax has been paid so you can't say in an affidavit that the tax was paid so I don't have to pay it again. Prior to this, we would always fill out a new exemption, but it appears that it is proper to site the old exemption and say that that exemption continues. That's what will happen with the paperwork here. There will be an affidavit that the old exemption continues and there will be a small gap mortgage which reflects the difference between what was paid down and the refinance amount which will have a separate affidavit.

Counsel informed that these mortgages are less than the original mortgages, but they are more than the paid down amount. He explained that the applicant financed the second phase with funds from another source which will be repaid.

The project total for the original phase was \$16 million and the Agency approved up to \$18 million. The second facility mortgage is \$19 million and the board approved up to \$26 million. So he advised the board that they are well within the project allocations.

He informed them that the new mortgage total would not exceed the original mortgage total. Member Farley asked if they were cross collateralized. Ehlers said no. He explained that there are two ground leases, a lease hold estate and a fee estate which are both mortgaged,

but the collateral stands separately. That is why it has to be one lender to understand the risk. It is also all controlled by complicated easements.

RESOLUTION #17-19 AUTHORIZES EXECUTION AND DELIVERY OF NECESSARY DOCUMENTS TO PERMIT REFINANCING OF THE HILTON GARDEN INN HOTEL AND REFINANCING FOR MARRIOTT RESIDENCE INN LOCATED 2012 OLD COUNTRY ROAD, RIVERHEAD WITH STERLING NATIONAL BANK

Lori Ann Pipczynski offered the following resolution, which was seconded by James Farley.

WHEREAS, by Application dated November 3, 2006, Browning Hotel Properties, LLC ("Browning") sought financial assistance from the Town of Riverhead Industrial Development Agency ("Agency") for the construction and equipping of a 114 key, 62,589 square foot Hilton Garden Inn Hotel, and

WHEREAS, upon the proceedings held upon the Application, the Agency adopted a determination by resolution dated February 5, 2007 entitled "A RESOLUTION DETERMINING THE PROPOSED BROWNING HOTEL PROPERTIES, LLC PROJECT A "PROJECT," APPROVING THE PROVIDING OF FINANCIAL ASSISTANCE BY THE TOWN OF RIVERHEAD INDUSTRIAL DEVELOPMENT AGENCY TO BROWNING HOTEL PROPERTIES, LLC WITH RESPECT THERETO, APPOINTING BROWNING HOTEL PROPERTIES, LLC AGENT OF THE TOWN OF RIVERHEAD INDUSTRIAL DEVELOPMENT AGENCY AND APPROVING DOCUMENTS IN CONNECTION THEREWITH" which resolution provided financial assistance to construct and equip a 114 key, 62,589 square foot Hilton Garden Inn Hotel (the "Hilton") at a total project cost of \$18,110,489. This facility has been constructed and placed in service and has a valid and subsisting certificate of occupancy, and

WHEREAS, upon proceedings held upon the Application, the Agency adopted a determination by resolution, dated April 6, 2015 entitled "A RESOLUTION APPROVING THE PROVISION OF FINANCIAL ASSISTANCE BY THE TOWN OF RIVERHEAD INDUSTRIAL DEVELOPMENT AGENCY TO BROWNING HOTEL PROPERTIES, LLC AND RELATED ENTITIES PHASE II" which resolution provided financial assistance to construct and equip the Phase II facility consisting of 140 key, 114,900 square foot Marriott Residence Inn (the "Marriott") with meeting space and amenities at a total project cost of \$26,849,775. All documents necessary to provide Agency assistance were executed and delivered at a closing October 22, 2015. This facility has been constructed and placed in service and has a valid and subsisting Certificate of Occupancy, and

WHEREAS, the Hilton and the Marriott are a phased development with common features of design for ingress and egress, plantings and site layout on a single tax map parcel at 2012 Old Country Road, Riverhead, New York 11901, Suffolk County Tax Map Number 0600-118-2-3.2 which requires that the financing of each facility, though evidenced by separate mortgage, be placed with the same lending institution, and

WHEREAS, Sterling National Bank has issued a term sheet for refinancing for the Hilton in the amount of up to \$15,000,000 and refinancing for the Marriott in the amount of up to

\$20,000,000 as set forth in an executed term sheet dated January 7, 2019, accepted January 16, 2019, and

WHEREAS, Sterling National Bank modified its approval of the refinancing loans to authorize a loan for the Hilton in the amount of up to \$16,000,000 and refinancing for the Marriott in the amount of up to \$19,000,000

WHEREAS, The Sale Agreement by and between the Agency and Browning Hotel Properties, LLC dated May 4, 2007, as amended, is in full force and effect and no further proceedings by the Agency are necessary to grant an abatement of mortgage recording tax for the necessary mortgages and other financing documents to be recorded with the Clerk of Suffolk County.

NOW, THEREFORE, BE IT RESOLVED, that the Chairman or Vice-Chairman, be and hereby are authorized to execute and deliver the necessary Mortgages, Assignments of Leases and Rents, First Amendment to Ground Lease with Browning Realty Management, LLC and Riverhead Hotel Management Corp., Estoppel Certificates, Compliance Certificates and all other documents necessary to permit the refinancing of the Hilton by Browning Hotel Properties, LLC with Sterling National Bank in an amount of up to \$16,000,000 and refinancing for the Marriott by Browning Hotel Properties, LLC with Sterling National Bank in the amount of up to \$19,000,000 both for premises located at 2012 Old Country Suffolk County Tax Map Number 0600-118-2-3.2, and that no mortgage recording tax shall be required to be paid to record such mortgages and assignments of leases and rents. The Agency refinance fee of \$2,500 and all expenses of the Agency, including reasonable attorney's fees, shall be paid by the Applicant.

BE IT FURTHER RESOLVED, that this resolution shall not take effect until it is countersigned, accepted and agreed to by the applicant and all related entities.

VOTE: 4 Yes
1 Absent

b. TOD Development Study discussion.

Dawn Thomas made a presentation to the board regarding a proposed study for Transit Oriented Development at the rail road station and requested financial assistance to help with a matching grant that has been awarded to the Town. After scouring resources and she found they had about \$37,000 to apply toward a match. She worked with Nelson, Pope and Voorhis who did the Brownfields Opportunity Study already which included a traffic and transit orientated analysis and they gave a proposal for a \$75,000 strategic plan for that rail road property. The town was awarded the grant, but instead of the 50/50 match for the \$75,000, they were awarded \$25,000 which leads her to requesting financial assistance from the agency because there is now a need for an additional \$12,500. The incentive proposal has to be returned by April 13th. The board was in favor of providing some assistance. The ED will review financial position of the Agency with the CFO and the comfort level of the board with an amount. A resolution can be prepared for the meeting on March 25th.

EXECUTIVE DIRECTORS REPORT


The ED informed the board of the Agency being a recipient of a Top Smart Growth Award
The agency is being honored for the Top Smart Growth Award by the Long Island Business
News - Real Estate, Architecture & Engineering Awards

The award is in collaboration with Georgica Green for the Riverview Lofts affordable housing
project. ED will make table arrangements for the March 26th event.

The ED informed the board that the Agency will need to have the meeting currently
scheduled for March 25th and will determine the need for the April 1st meeting after that.

Member Lori Ann Pipczynski motioned to adjourn the board meeting. Member James Farley
seconded. The meeting was adjourned at 5:58pm.

Dated: 3/25/19


Secretary/Asst.